

104TH CONGRESS  
2D SESSION

# S. 2115

To protect and enhance sportsmen's opportunities and conservation of wildlife,  
and for other purposes.

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IN THE SENATE OF THE UNITED STATES

SEPTEMBER 24, 1996

Mr. SHELBY introduced the following bill; which was read twice and referred  
to the Committee on Environment and Public Works

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## A BILL

To protect and enhance sportsmen's opportunities and  
conservation of wildlife, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Sportsmen's Bill of  
5 Rights Act of 1996".

6 **SEC. 2. FINDINGS POLICY.**

7 (a) FINDINGS.—Congress finds that—

8 (1) fishing is an important and traditional rec-  
9 reational activity in which 36,000,000 Americans  
10 16-years-old and older participate;

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1           (2) hunting is an important and traditional rec-  
2           reational activity in which 14,000,000 Americans  
3           16-years-old and older participate;

4           (3) survey data from a recent comprehensive 3-  
5           year study entitled “Factors Related to Hunting and  
6           Fishing Participation in the United States” suggest  
7           that 95 percent of Americans agreed fishing should  
8           remain legal and 81 percent agreed hunting should  
9           remain legal;

10          (4) anglers and hunters have been and continue  
11          to be among the foremost supporters of sound wild-  
12          life management and conservation practices in the  
13          United States;

14          (5) persons who hunt or fish and organizations  
15          related to those activities provide direct assistance to  
16          wildlife managers and enforcement officers of Fed-  
17          eral, State, and local Governments;

18          (6) funds raised through license, permit, and  
19          stamp purchases as well as through excise taxes on  
20          goods used by anglers and hunters have generated  
21          more than \$6,000,000,000 for wildlife research and  
22          management; and

23          (7) fishing and hunting are essential compo-  
24          nents of effective wildlife management in that they  
25          tend to reduce conflicts between people and wildlife

1 and by providing incentives for the conservation of  
2 wildlife and the habitats and ecosystems on which  
3 wildlife depends.

4 (b) POLICY.—It is the policy of the United States  
5 that each Federal agency that manages a natural resource  
6 or the land and water on which a natural resource depends  
7 shall support, promote, and enhance opportunities for fish-  
8 ing and hunting.

9 **SEC. 3. TAKING OF FISH AND WILDLIFE ON FEDERAL**  
10 **LANDS.**

11 (a) IN GENERAL.—Federal land shall be open to ac-  
12 cess and for use for fishing and hunting unless—

13 (1) the responsible agency of the State in which  
14 the Federal land is located limits access to and use  
15 of the land as part of wildlife management by the  
16 State; or

17 (2) the Federal agency responsible for Federal  
18 public land limits access and use—

19 (A) for reasons of national security; or

20 (B) for reasons related to specific statutory  
21 requirements regarding the management and  
22 use of the land, if the requirements are clearly  
23 and directly incompatible with fishing or hunt-  
24 ing.

1 (b) NO PRIORITY.—This section does not require a  
 2 Federal agency to give preference to fishing or hunting  
 3 over other uses of Federal land or land management prior-  
 4 ities established in Federal law.

5 (c) AUTHORITY OF THE STATES.—

6 (1) IN GENERAL.—Nothing in this Act impairs  
 7 the primacy of State authority in regulating the tak-  
 8 ing of fish and wildlife on land within the State, in-  
 9 cluding Federal land.

10 (2) FEDERAL AUTHORITY.—Except as expressly  
 11 provided by Act of Congress, the authority of a Fed-  
 12 eral agency regarding the taking of fish and wildlife  
 13 on Federal land managed by the Federal agency  
 14 shall be no greater than the rights of a private  
 15 owner of land.

16 **SEC. 4. PROTECTION OF THE INTEGRITY OF THE SPORTS-**  
 17 **MEN'S TRUST ACCOUNTS.**

18 (a) FUNDING OF PLANS AND PROJECTS.—

19 (1) FEDERAL AID IN WILDLIFE RESTORATION  
 20 ACT.—The Act entitled “An Act to provide that the  
 21 United States shall aid the States in wildlife-restora-  
 22 tion projects, and for other purposes”, approved  
 23 September 2, 1937 (commonly known as the “Fed-  
 24 eral Aid in Wildlife Restoration Act”) (16 U.S.C.  
 25 669 et seq.), is amended—

1 (A) by striking “Secretary of Agriculture”  
2 each place it appears and inserting “Secretary  
3 of the Interior”; and

4 (B) in section 4 by adding at the end the  
5 following:

6 “(c) The amount of funding made available to the  
7 Secretary of the Interior for expenses under this section  
8 shall not be available for use as a supplement to decreased  
9 funding for any other expense under the authority of the  
10 Secretary of the Interior.”.

11 (2) FEDERAL AID IN FISH RESTORATION  
12 ACT.—Section 4 of the Act entitled “An Act to pro-  
13 vide that the United States shall aid the States in  
14 fish restoration and management projects, and for  
15 other purposes”, approved August 9, 1950 (com-  
16 monly known as the “Federal Aid in Fish Restora-  
17 tion Act”) (16 U.S.C. 777c), is amended by adding  
18 at the end the following:

19 “(f) The amount of funding made available to the  
20 Secretary of the Interior for expenses under this section  
21 shall not be available for use as a supplement to decreased  
22 funding for any other expense under the authority of the  
23 Secretary of the Interior.”.

1 **SEC. 5. EVALUATION OF WILDLIFE MANAGEMENT EFFECTS.**

2 (a) STATEMENT.—No Federal agency action that  
3 may significantly diminish opportunities or access to en-  
4 gage in fishing or hunting on Federal land shall be effec-  
5 tive until the agency prepares a detailed statement evalu-  
6 ating the effect of the action on fishing and hunting.

7 (b) NOTICE AND HEARING.—Before taking an action  
8 described in subsection (a), a Federal agency shall—

9 (1) provide notice of the proposed agency action  
10 to the appropriate State agency responsible for the  
11 conduct or oversight of fish and wildlife manage-  
12 ment; and

13 (2) conduct a public hearing in the vicinity of  
14 the proposed action.

15 (c) JUDICIAL REVIEW.—An individual or entity that  
16 may be adversely affected by a loss of fishing or hunting  
17 opportunities on Federal land as a result of an agency ac-  
18 tion described in subsection (a) may bring a civil action  
19 in United States district court for review of the action.

20 (d) EMERGENCIES.—Nothing in this section pre-  
21 cludes an agency from exercising statutory authority to  
22 close Federal lands in an emergency or other exigent cir-  
23 cumstances.

24 (e) EFFECT ON OTHER LAW.—Nothing in this sec-  
25 tion affects or has application to the Migratory Bird Trea-  
26 ty Act (16 U.S.C. 703 et seq.) or the Magnuson Fishery

1 Conservation and Management Act (16 U.S.C. 1801 et  
2 seq.).

3 **SEC. 6. CLARIFICATIONS RELATING TO MAINTENANCE OF**  
4 **FISHING AND HUNTING OPPORTUNITIES.**

5 (a) DEFINITION OF POINT SOURCE.—Section  
6 502(14) of the Federal Water Pollution Control Act (33  
7 U.S.C. 1362(14)) is amended—

8 (1) by striking “means” and inserting the fol-  
9 lowing:

10 “(A) means”;

11 (2) by striking “discharged.” and inserting  
12 “discharged; but”;

13 (3) by striking “This term does not include ag-  
14 ricultural stormwater” and inserting the following:

15 “(B) does not include—

16 “(i) agricultural stormwater dis-  
17 charges and return flows from irrigated  
18 agriculture;” and

19 (4) by striking the period at the end and insert-  
20 ing “; or”; and

21 (5) by adding at the end the following:

22 “(ii) any conveyance that serves the  
23 purposes of directly assisting individuals  
24 engaged in fishing, hunting, or recreational  
25 shooting.”.

1 (b) DREDGED OR FILL MATERIAL.—Section  
 2 404(f)(1) of the Federal Water Pollution Control Act (33  
 3 U.S.C. 1344(f)(1)) is amended—

4 (1) by striking the comma at the end of sub-  
 5 paragraph (F) and inserting “; or”; and

6 (2) by inserting after subparagraph (F) the fol-  
 7 lowing:

8 “(G) resulting from the conduct of fishing,  
 9 hunting, or recreational shooting;”.

10 **SEC. 7. PROMOTION OF FISHING AND HUNTING BY FED-**  
 11 **ERAL AGENCIES.**

12 Each Federal agency, in carrying out the Act entitled  
 13 “An Act to provide that the United States shall aid States  
 14 in wildlife-restoration projects, and for other purposes”,  
 15 approved September 2, 1937 (commonly known as the  
 16 “Federal Aid in Wildlife Restoration Act”) (16 U.S.C. 669  
 17 et seq.) or the Act entitled “An Act to provide that the  
 18 United States shall aid the States in fish restoration and  
 19 management projects, and for other purposes”, approved  
 20 August 9, 1950 (commonly known as the “Federal Aid  
 21 in Fish Restoration Act”) (16 U.S.C. 777 et seq.), shall  
 22 seek to enhance existing programs and services and estab-  
 23 lish new programs and services that promote fishing and  
 24 hunting.



1   **SEC. 8. CIVIL ACTIONS.**

2           (a) INTERVENTION.—A person interested in fishing  
3 or hunting shall be entitled to intervene as a matter of  
4 right in a civil action brought under any other Federal  
5 law relating to the use of any Federal land in which the  
6 plaintiff seeks an order that would require the use (or  
7 nonuse) of the land in such a manner as to impair access  
8 to or use of the land for the purpose of fishing or hunting  
9 as required by this Act.

10          (b) CONSIDERATION OF INTERESTS.—If an inter-  
11 venor under subsection (a) shows that the application of  
12 another Federal law as sought by the plaintiff would be  
13 likely to impair access to or use of the land for the purpose  
14 of fishing or hunting as required by this Act, the court  
15 shall not grant the relief sought unless the plaintiff shows  
16 that the interest intended to be advanced by the other  
17 Federal law clearly outweighs the interest of protecting  
18 access to and use of Federal land for fishing and hunting.

19   **SEC. 9. STANDING TO BRING A CIVIL ACTION.**

20          A licensed angler, licensed hunter, or organization  
21 representing the interests of licensed anglers or hunters  
22 may bring a civil action in a United States district court  
23 to seek declaratory or injunctive relief regarding the imple-  
24 mentation of any provision of this Act, including a declara-  
25 tion that a civil action brought by another person may sig-  
26 nificantly disrupt or eliminate opportunities for fishing or

- 1 hunting and an injunction against the prosecution of the
- 2 civil action.

